

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

13-M-108-HKS

SALVATORE TANTILLO,

Defendant.

**GOVERNMENT'S RESPONSE TO DEFENDANT'S
MOTION FOR RELEASE WITH ELECTRONIC MONITORING**

The defendant filed a second motion for bail on July 30, 2013 (Dkt. 7). For the reasons stated at the detention hearings as well as the following reasons, the government continues to oppose release of the defendant.

PRELIMINARY STATEMENT

On July 19, 2013, the defendant, SALVATORE TANTILLO, appeared before this Court on a complaint, which charged a violation of Title 18, United States Code, Section 2251(a) [production of child pornography] (Dkt. 1). Following a detention hearing at that time, this Court granted the government's motion to detain the Defendant. (Dkt. 1) with leave to reconsider following the government's preview of the defendant's cell phone and computers.

On July 25, 2013, the defendant filed a Motion for Release (Dkt. 4), and a detention hearing was held by Magistrate Judge Jeremiah J. McCarthy, who denied the defendant's motion without prejudice to renew before this Court. (Dkt. 5.) The defendant filed another bail motion on July 30, 2013 seeking release on electronic monitoring. (Dkt 7). The government now responds to this motion.

STATEMENT OF FACTS

On May 24, 2013, the defendant brought a 16 year old female to a Motel 6 located at 52 Freeman Rd., Williamsville, New York. While at the hotel, the defendant engaged in sexual activities with the victim and took approximately 25 photographs of the sexual activity. The pictures were taken with the victim's iPod Touch, which contained GPS coordinates show the photographs were taken at that location.

The defendant was interviewed while a search warrant was executed at his residence. The defendant admitted having oral sex, anal sex and intercourse with the victim, and he admitted that he took the pictures. He also admitted that he knew the victim was 16 years of age. He was shown printed copies of some of the child pornography photos and admitted to taking those photographs with the victim's iPod Touch. The defendant voluntarily signed a

statement detailing his involvement with the victim and the sexual activity that occurred.

During the defendant's hearing on July 26, 2013, Judge McCarthy expressed several concerns about releasing the defendant and noted that the defendant had no place to reside, was unsure about his job situation, and the substantial sentence faced by the defendant placed him at a substantial flight risk. (Dkt. 5).

In his current Motion for Release on Electronic Monitoring, the defendant indicates that if he is released, he can stay with his father. (Dkt 7., ¶ 8). The probation department, however, has not approved the defendant's father's residence as a suitable place. The defense advises the guns have been removed from this residence and states that "[t]here was a question about the defendant's stepmother. Those issues are easily cleaned up," but fails to provide any indication how those issues can be cleaned up. The Memorandum by the probation officer dated July 31, 2013 advises the Court that the father's residence is not a suitable residence for the defendant based upon not only the guns, but also because of the defendant's stepmother's mental state and the attitude of the defendant's father toward the probation officer in the court.

CONCLUSION

For the foregoing reasons, the defendant's Motion for Release on Electronic Monitoring should be denied.

DATED: Buffalo, New York, August 2, 2013.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2013, I electronically filed the foregoing **GOVERNMENT'S RESPONSE TO DEFENDANT'S MOTION FOR RELEASE WITH ELECTRONIC MONITORING** with the Clerk of the District Court using its CM-ECF system, which would then electronically notify the following CM/ECF participant on this case:

John Humann

S/Diane E. Carlsen

DIANE E. CARLSEN
Legal Assistant